

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0136P

Gross Income Tax
Calendar Years 1995, 1996, and 1997

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ISSUE(S)

I. **Tax Administration**—Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Delaware and has three Indiana business locations.

Taxpayer protests the penalty and states that all returns, payments, extensions, additional liabilities and interest previously owed to the state were met in a timely manner, and in good faith, using the lower rate of tax. It has made corrections for 1998 using the higher rate and will continue to file all subsequent returns using the higher rate. Taxpayer further states there was never any willful intent to purposely file Form IT-20 incorrectly for the three audit years, therefore it requests a waiver of the penalty.

At audit it was determined that the taxpayer reported high rate income at the lower rate. Taxpayer is a large corporation with its own tax department and the preparer of the returns did not take the time to research the Indiana Code or Regulations to determine at what rate the Indiana revenue was to be reported. A prudent taxpayer, especially one of the size of the taxpayer with its own tax department, must be more aware of its complete tax responsibilities. A ten- percent negligence penalty was assessed by the auditor.

I. **Tax Administration**—Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to report receipts at the high rate of tax. Taxpayer paid less than fifty percent of its tax on the returns. The taxpayer's tax department should properly have filed the returns.

Taxpayer, in a letter dated March 6, 2000, protested penalties assessed because there was no negligence or intentional disregard of Indiana tax regulations. Taxpayer further states it has made corrections for 1998. The Indiana code and Regulations are clear regarding the segregation of receipts and the reporting of high and low rate income. The tax return has a separate column for high rate and low rate receipts.

Taxpayer did not make itself aware of the Indiana tax laws and has not provided reasonable cause to allow the department to waive the negligence penalty.

FINDING

Taxpayer's protest is denied.